



# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE

United States Patent and Trademark Office

Address: COMMISSIONER FOR PATENTS

P.O. Box 1450

Alexandria, Virginia 22313-1450

www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/812,224	03/19/2001	Rodney Daughtrey	09765-012001	9468
26161	7590	09/21/2010		
FISH & RICHARDSON PC				
P.O. BOX 1022				
MINNEAPOLIS, MN 55440-1022				
EXAMINER				
DIXON, THOMAS A				
ART UNIT		PAPER NUMBER		
3684				
NOTIFICATION DATE		DELIVERY MODE		
09/21/2010		ELECTRONIC		

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

PATDOCTC@fr.com

### Office Action Summary

**Application No.**

09/812,224

**Applicant(s)**

DAUGHTREY, RODNEY

**Examiner**

Thomas Dixon

**Art Unit**

3684

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 4 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 09 July 2010.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-39 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 15-27 and 36-39 is/are allowed.
- 6) ☒ Claim(s) 1-14 and 28-31 is/are rejected.
- 7) ☒ Claim(s) 32-35 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SE-02)
- 4) ☐ Interview Summary (PTO-413)
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_
- Paper No(s)/Mail Date \_\_\_\_\_

## **DETAILED ACTION**

### ***Request for Continued Examination***

1. The amendment and remarks of 7/9/2010 have been considered.

### ***Response to Amendment***

2. The arguments to the 112 1<sup>st</sup> rejection are convincing, 112 rejection is withdrawn.
3. The arguments to the 102 rejections of claims 1-14 and 28-31 are not convincing.

As per claims 1-14, the claims are to a monitor with circuitry, the Kirk et al ('578) reference discloses an apparatus with circuitry capable of displaying the user interface, see figure 1 (105) and page 11, bottom paragraph, GUI using internet explorer or HTML on travel agent computers and therefore meets the language of the claims. Further, though not specifically rejected over Tanner ('590), as applicant has argued inherent circuitry of a monitor in applicant's disclosure, Examiner feels that the Tanner ('590) reference, which is replete with figures of its user interface, which must inherently be rendered on a monitor also inherently discloses a monitor equivalent to applicant's and therefore anticipates applicant's claims.

MPEP 2114 [R-1] states that while features of an apparatus may be recited either structurally or functionally, claims directed to an apparatus must be distinguished from the prior art in terms of structure rather than function. In re Schreiber, 128 F.3d 1473, 1477-78, 44 USPQ2d 1429, 1431-32 (Fed. Cir. 1997) (The absence of a disclosure in a prior art reference relating to function did not defeat the Board's finding of anticipation of claimed apparatus because the limitations at issue were found to be inherent in the prior art reference); see also In re Swinehart, 439 F.2d 210, 212-13, 169 USPQ 226, 228-29 (CCPA 1971); In re Danly, 263 F.2d 844, 847, 120 USPQ 528, 531 (CCPA 1959). "[A]pparatus claims cover what a device is, not what a device does." Hewlett-Packard Co. v. Bausch & Lomb Inc., 909 F.2d 1464, 1469, 15 USPQ2d 1525, 1528 (Fed. Cir. 1990) (emphasis in original).

As per Claims 28-31, the claims are to a method of rendering on the monitor a fare rules summary, the Tanner ('590) reference discloses a method of rendering on a computer monitor fares comprising an origin, a destination and a carrier, see figure 4A (columns labeled "Dep" for departure or origin, "Dest" for destination, and "AI" for Airline or carrier) as claimed. Further, as applicant has argued inherent circuitry of a monitor in applicant's disclosure, Examiner feels that the Tanner ('590) reference, which is replete with figures of it's user interface, which must inherently be rendered on a monitor also inherently discloses a monitor equivalent to applicant's and therefore anticipates applicant's claims

#### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 1-14 are rejected under 35 U.S.C. 102(b) as being anticipated by Kirk et al (5,768,578).

Kirk et al ('578) discloses a circuitry, see figure 1 (105) capable of rendering a user interface.

Claims directed to an Apparatus must be distinguished from the prior art in terms of structure rather than function, *In re Danly* 263 F.2d 844, 847, 120 USPQ 582, 531 (CCPA 1959).

A claim containing a "recitation with respect to the manner in which a claimed apparatus is intended to be employed does not differentiate the claimed apparatus from a prior art apparatus" if the prior art apparatus teaches all the structural limitations of the claim. *Ex parte Masham*, 2 USPQ2d 1657 (bd Pat. App. & Inter. 1987).

The structural limitations of claims 1-14, including "circuitry to render" are disclosed by Kirk et al ('578).

5. Claims 28-31 are rejected under 35 U.S.C. 102(b) as being anticipated by Tanner (WO 01/59590).

As per Claim 28.

Tanner (590) discloses:

rendering a fare evaluation result table that displays fare rule summaries for fares in slices of an itinerary, the fare evaluation table having a first one of rows and columns representing fares and a second one of rows and columns representing the fare rule summaries with fares comprising an origin, a destination and a carrier, with each one of the fares being represented by a corresponding fare code, see Figures 8A-B and 4A-B (QBNRHX QBNRHX) in of the first one of the rows and columns and with a price, see (\$612) associated with the fare displayed in a second of the first one of the rows and columns.

As per Claim 29.

Tanner (590) further discloses the table is comprised of rows that represent fares, see figure 3, Adult, Approx. Tax, Total and columns that represent rule summaries, see rules.

As per Claim 30.

Tanner (590) further discloses the columns also represent price, see figures 3, Adult, Approx. Tax, Total.

As per Claim 31.

Tanner (590) further discloses the columns represent fare combinability restrictions, see figure 4B and 8A, QBNRHX in which Q represents "controlled", R represents "Round-trip No Restrictions", X represents "weekday" (according to the FAREDEX Translation Table of columns 10 and 11 of Whitesage ('523)).

***Allowable Subject Matter***

6. Claims 32-35 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 102, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims as they contain the language of the claims indicated allowable by the Board of Patent Appeals and Interferences.

7. Claims 15-27, 36-39 are allowable.

8. The following is a statement of reasons for the indication of allowable subject matter:

As per Claims 15 and 36.

As per Decision by the Board of Patent Appeals and Interferences 4/10/09, the prior art of record does not disclose or fairly teach: "evaluating the retrieved fares against the retrieved rules and returning a status corresponding to pass, fail or defer."

As per Claim 19.

As per Decision by the Board of Patent Appeals and Interferences 4/10/09, the prior art of record does not disclose or fairly teach: "populate a summary table of fares and corresponding evaluations for each fare rule category, each evaluation having a status." of a fare rules summary.

**ACTION MADE FINAL**

9. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Thomas Dixon whose telephone number is (571)272-6803. The examiner can normally be reached on Monday - Thursday 6:30 - 4:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kambiz Abdi can be reached on (571) 272-6702. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Thomas Dixon/  
Primary Examiner  
Art Unit 3684

8/2010